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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,362	10/06/2005	Soren B. Olsen	A5-1939	3906
27127	7590	06/01/2009		
HARTMAN & HARTMAN, P.C. 552 EAST 700 NORTH VALPARAISO, IN 46383				EXAMINER HOOK, JAMES F
ART UNIT 3754		PAPER NUMBER		
NOTIFICATION DATE		DELIVERY MODE		
06/01/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

domenica@hartmaniplaw.com  
gayle@hartmaniplaw.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/535,362	<b>Applicant(s)</b> OLSEN ET AL.
	<b>Examiner</b> James F. Hook	<b>Art Unit</b> 3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 07 April 2009.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) 10,14-17 and 20 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-9,11-13,18 and 19 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/96/08)  
Paper No(s)/Mail Date 5/18/05

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

Applicant's election without traverse of figures 4, 11, and 13 in the reply filed on April 7, 2009 is acknowledged.

Claims 10, 14-17, and 20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 7, 2009. It is noted that claim 20 was considered by applicant to read upon elected figure 11, however, providing structure within the lumen in the form of a longitudinal element in the internal cavity is considered to read upon the non-elected embodiments such as set forth in claims 14-17, therefore such is considered as also drawn to a non elected embodiment and withdrawn from consideration.

***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4-7, 9, 11-13, 18 and 19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Flexonics (GB 838,070).

Claims 1-3, 6, 11-13, 18, and 19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Linde (DE 10110706).

Claims 1-3, 6-9, 11-13, 18, and 19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Trevaskis (CH 321638).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-9, 11-13, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over November. The reference to November discloses the recited hose member having a central region as seen in figures 1-4 surrounded by a circumferential portion comprising a number of metal tubes 11 (where the tubes are recited to be welded and brazed which implies they are metal, however such would only be a choice of mechanical expedients if such were not the case), the tubes are substantially parallel to each other and wound in a helical manner around a longitudinal axis of the hose member, the angle of the twist can be varied to desired values, the tubes can be provided with a protective covering 17 of rubber, and as seen in figure 5 and 6, the hose can have a substantially closed surface, a member can be provided in the central cavity

such as 23 (should applicant feel that claim 20 is still within the elected invention such would be rejected under this reference in any subsequent rejection), the ends are provided with manifolds 12 to create fluid communication between the two manifolds at the ends of the hose, a central cavity is seen between the plurality of tubes. The reference to November discloses all of the recited structure with the exception of specific tube wall dimensions, using aluminum for the metal of the tubes, the specific angle of the twist, providing more than one layer of tubes, and using such for an automobile. However, it is noted that November does discuss using metal tubes, varying the angle of twist, having more than 3 tubes which inherently would require a second layer of tubes, and that the uses are for fluid hoses that require a certain amount of flexibility. It is considered that the dimensions of the hose wall thickness and diameter of the tubes are merely a choice of mechanical expedients where one skilled in the art would only require routine experimentation to arrive at optimum values to preserve flexibility in the metal tubes as such would only require routine skill in the art and would insure the pipes were flexible enough to allow for bending without breaking thereby saving money in replacement costs. It would have been obvious to one skilled in the art based on the teachings of November to select any angle of twist as such is merely a choice of mechanical expedients requiring only routine experimentation to arrive at optimum values where November teaches that such is old and known in the art to vary the angles to arrive at different amounts of flexibility. The use of aluminum is considered merely a choice of mechanical expedients to select any type of metal by using routine experimentation to arrive at an optimum material and it would have been

obvious to form the tubes of aluminum as such is merely an obvious choice of mechanical expedients where aluminum is known for use for it's heat transfer properties and resistance to deterioration in the presence of fluids thereby suggesting it's use to at least prevent rusting when such is used for fluid transfer and where such would thereby save money in replacement costs. The additional use of more tubes is already suggested by November and it would have been obvious to provide such in a second layer as such is merely a duplication of parts which is considered obvious to one skilled in the art to provide a second layer of tubes as such would be merely a choice of mechanical expedients and would inherently provide additional tubes for transfer of larger amounts of fluids as suggested by November.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references to Gates, Jr., Higbee, Thayer, Freed, Anderson, and Legallais disclosing state of the art multilumen hoses.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James F. Hook/  
Primary Examiner, Art Unit 3754

JFH